



06-16-03

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Z-#3Attorney Docket No.: 030048038US  
Express Mail Label EV335520407US

## PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: MICHAEL S. FOSTER ET AL.  
APPLICATION No.: 10/039,784  
FILED: OCTOBER 26, 2001  
FOR: PARALLEL ANALYSIS OF INCOMING DATA TRANSMISSIONS

EXAMINER: WELLINGTON CHIN  
ART UNIT: 2664  
CONF. NO: 9136

**Petition to Revive Unintentionally Abandoned Application Under 37 C.F.R. § 1.137(b)**

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

RECEIVED  
JUN 17 2003

Sir:

OFFICE OF PETITIONS

1. The applicants hereby petition for revival of the above-identified application. On May 2, 2002, applicants filed a Request to Rescind Previous Nonpublication Request under 35 U.S.C. 122(b)(2)(B)(ii). However, it is our understanding that the United States Patent and Trademark Office has taken the position that the application became abandoned for failure to concurrently file a Notice of Foreign Filing in compliance with 35 U.S.C. 122(b)(2)(B)(iii).
2. Notice Under 37 C.F.R. § 1.137(b)(1)

Enclosed herewith is a Notice of Rescission of Previous Nonpublication Request and Notice of Foreign Filing in compliance with 35 U.S.C. 122(b)(2)(B)(iii).

3. Fee Under 37 C.F.R. § 1.137(b)(2)

Enclosed is a check covering the fee of \$1,300.00 under 37 C.F.R. § 1.17(m).

4. Statement Under 37 C.F.R. § 1.137(b)(3)

The entire delay in filing the required Notice until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional.

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1300.00 OP

5. Duration of Abandonment (1203 OG 86-87, Oct. 21, 1997)

- This petition is being filed within 3 months of the date on which the Office clarified its position that a Request to Rescind Previous Nonpublication Request under 35 U.S.C. 122(b)(2)(B)(ii) [PTO/SB/36 (11-00)] is insufficient to comply with the requirements of 35 U.S.C. 122(b)(2)(B)(iii) [Notice of Foreign Filing]. See the "Reminder that Rescission of a Nonpublication Request is Not Itself a Notice of Foreign Filing" signed by Deputy Commissioner Kunin on April 11, 2003. Under current USPTO practice, further information regarding the abandonment is not required.
- This petition is being filed more than 3 months after the applicant was first notified of the abandonment, but within 1 year of the date of abandonment. Attached hereto is a statement by \_\_\_\_\_ explaining how the abandonment occurred and how it was unintentional.
- This petition is being filed more than 1 year after the apparent date of abandonment. Attached hereto is a statement by \_\_\_\_\_ explaining when the applicant or applicant's representative first became aware of the abandonment and how the delay in discovering the abandoned status occurred despite the exercise of due care or diligence on the part of the applicant or the applicant's representative.

6. Terminal Disclaimer under 37 C.F.R. § 1.137(b)(4) and (c)

- Since this application was filed on or after June 8, 1995, no terminal disclaimer is required.
- Since this application was filed before June 8, 1995, a terminal disclaimer is enclosed dedicating to the public a terminal part of the term of any patent granted hereon, and of any patent granted on a continuing application hereof, equivalent to the period of abandonment of this application.

7. Additional Fees

- Please charge any underpayment in fees for timely consideration of this Petition to Deposit Account No. 50-0665.

Respectfully submitted,  
Perkins Coie LLP

Date: June 13, 2003



\_\_\_\_\_  
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PTO/SB/36 (05-03) (MODIFIED)

Approved for use through 04/30/2003. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**NOTICE OF RESCISSION OF PREVIOUS  
NONPUBLICATION REQUEST**  
(35 U.S.C. 122(b)(2)(B)(ii))  
AND, IF APPLICABLE,  
**NOTICE OF FOREIGN FILING**  
(35 U.S.C. 122(b)(2)(B)(iii))

Send completed form to:

**Mail Stop Petition**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
FAX: (703) 305-8568

|                        |  |
|------------------------|--|
| Application Number     | 10/039,784                                       |
| Filing Date            | October 26, 2001                                 |
| First Named Inventor   | Michael S. Foster                                |
| Title                  | PARALLEL ANALYSIS OF INCOMING DATA TRANSMISSIONS |
| Attorney Docket Number | 030048038US                                      |
| Group Art Unit         | 2664   |
| Examiner               | Wellington Chin                                  |

A request that the above-identified application not be published under 35 U.S.C. 122(b) (nonpublication request) was included with the above-identified application on filing pursuant to 35 U.S.C. 122(b)(2)(B)(i). I hereby rescind the previous nonpublication request.

- I hereby notify the Commissioner under 35 U.S.C. 122(b)(2)(B)(iii) of a foreign or international filing. This notice is being provided later than forty-five (45) days after the date of such foreign or international filing. A petition to revive under 37 CFR 1.137(b) is enclosed. See 37 CFR 1.137(f).

If a notice of subsequent foreign or international filing required by 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) was not filed within forty-five (45) days after the date of filing of the foreign or international application, the application is ABANDONED, and a petition to revive under 37 CFR 1.137(b) is required. See 37 CFR 1.137(f).

June 13, 2003

Date

Signature

(206) 264-6380

Telephone Number

James A. D. White

Typed or printed name

**This request must be signed in compliance with 37 CFR 1.33(b).**

If information or assistance is needed in completing this form, please contact the Pre-Grant Publication Division at (703) 605-4283 or by e-mail at PGPub@USPTO.gov.

**CERTIFICATE OF MAILING OR TRANSMISSION**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as Express Mail No. EV335520407US in an envelope addressed to: Mail Stop Petition, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile ((703) 305-8568) transmitted to the U.S. Patent and Trademark Office on the date shown below.

|                   |               |                       |      |               |
|-------------------|---------------|-----------------------|------|---------------|
| Name (Print/Type) | Sandy Reisner | <i>Teresa Langley</i> | Date | June 13, 2003 |
| Signature         |               | <i>Teresa Langley</i> |      |               |

Burden Hour Statement: This collection of information is required by 37 CFR 1.213(b). The information is used by the public to rescind a previously filed request that an application not be published under 35 U.S.C. 122(b) (and the PTO's process that rescission). Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This form is estimated to take 6 minutes to complete. This time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS.

JUN 17 2003

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